

**UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF NORTH CAROLINA  
CHARLOTTE DIVISION  
DOCKET NO. 3:13-CR-00264-FDW-DSC**

**UNITED STATES OF AMERICA**

**vs.**

**HECTOR MANUEL CASTANEDA  
GASTELO,**

**Defendant.**

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**ORDER**

THIS MATTER is before the Court on Defendant's Objections to Magistrate Judge David S. Cayer's Memorandum and Recommendation ("M&R"). (Doc. No. 110). The M&R, (Doc. No. 99), recommended that Defendant's Motion to Suppress, (Doc. No. 72), and Supplemental Motion to Suppress, (Doc. No. 94), be DENIED. Defendant timely filed objections to the M&R. For the reasons set forth below, the Court rejects Defendant's Objections, ACCEPTS AND ADOPTS the M&R, and DENIES Defendant's Motion to Suppress.

A district court may refer a motion to suppress to a magistrate judge for a recommendation pursuant to Federal Rule of Criminal Procedure 59(b)(1). A party may file written objections to magistrate judge's memorandum and recommendation within fourteen days of being served with a copy of the memorandum and recommendation. 28 U.S.C § 636(b)(1)(C). "Any written objections must *specifically identify* the portions of the Report and Recommendation to which objections are made *and* the basis for such objections." Morgan v. North Carolina Dep't of Health and Human Services, 421 F. Supp. 2d 890, 893 (W.D.N.C. 2006) (quoting Thomas v. Westinghouse Savannah River Co., 21 F. Supp. 2d 551, 560 (D.S.C. 1997)); see also Battle v. United States Parole Comm'n, 834 F.2d 419, 421 (5th Cir. 1987) ("Parties filing objections must

specifically identify those findings objected to.”). “Frivolous, conclusive or general objections need not be considered by the district court.” Battle, 834 F.2d at 421. “A general objection, or one that merely restates the arguments previously presented is not sufficient to alert the court to alleged errors on the part of the magistrate judge. An ‘objection’ that does nothing more than state a disagreement with a magistrate’s suggested resolution, or simply summarizes what has been presented before, is not an ‘objection’ as that term is used in this context.” Aldrich v. Bock, 327 F. Supp. 2d 743, 747 (E.D. Mich. 2004); see also Jones v. Hamidullah, No. 2:05-2736-PMD-RSC, 2005 WL 3298966 at \*3 (D.S.C. Dec. 5, 2005) (noting a petitioner’s objections to a magistrate judge’s report were “on the whole without merit in that they merely rehash [the] general arguments and do not direct the court’s attention to any specific portion of the [report].”). General or conclusory objections result not only in the loss of de novo review by the district court but also in waiver of appellate review. Tyler v. Beinor, 81 F. App’x 445, 446 (4th Cir. 2003); United States v. Woods, 64 F. App’x 398, 399 (4th Cir. 2003). If proper objections are made, a district court will review the objections under a de novo standard. 28 U.S.C. § 636(b)(1)(C). Absent a specific, proper, and timely filed objection, the Court reviews only for “clear error,” and need not give any explanation for adopting the M&R. Diamond v. Colonial Life & Acc. Ins. Co., 416 F.3d 310, 315 (4th Cir. 2005); Camby v. Davis, 718 F.2d 198, 200 (4th Cir. 1983).

Here the Defendant makes eleven objections to the M&R. (Doc. No. 110). However, upon review, none of these objections are proper. All of the objections are comprised of a one or two sentences stating a conclusory disagreement with the Magistrate’s findings. None of the objections set forth a basis for the objection or cite any law of facts to support the objection.<sup>1</sup> Accordingly,

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<sup>1</sup> As a representative example of all of Defendant’s objections, the entirety of the first objection consists of “Page 2, Paragraph 4: Gastelo objects to being identified as the head of a drug trafficking organization and all such references made in this Memorandum.”

the Court rejects these objections and will not consider them.

As there are no proper objections to consider, the Court need only review the M&R for clear error. Accordingly, after a careful review of the record, the Court finds that the Magistrate Judge's findings of facts are supported by the record and his conclusions of law are consistent with and supported by current case law. Thus, the M&R is hereby ACCEPTED and ADOPTED and Defendant's Motion to Suppress, (Doc. No. 72), and Supplemental Motion to Suppress (Doc. No. 94), are DENIED.

IT IS SO ORDERED.

Signed: May 8, 2014

  
Frank D. Whitney  
Chief United States District Judge 